

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Malcolm Tom McKECHNIE et al.

Int'l No. : PCT/GB97/03317

Serial No.: 09/423,399

Filed : December 3, 1997

Title : METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER
PARTICLES FROM A MATERIAL

Box: PCT

Commissioner for Patents

Washington, D.C. 20231

RECEIVED

07 NOV 2000

Legal Staff
International DivisionPETITION TO REVIVE

Pursuant to 37 C.F.R. § 1.137(a), Applicants respectfully request that this application be revived. Its abandonment was unavoidable. The reasons for this Petition are as follows:

1. On 28 March 2000, the Patent and Trademark Office notified the undersigned attorney that an application bearing a Serial No. 09/308,860 was abandoned for failure to respond to a Notice of Missing Requirements mailed on 17 June 1999. A copy of the Notification of Abandonment is enclosed as Exhibit A. The Serial No. 09/308,860 is apparently a wrong number. All of the other information (which, unfortunately, is out of register on the form) is correct. The first-named applicant is McKechnie. Our attorney docket No. is 08291/600001. The PCT International application number is PCT/GB97/03317. And the first priority date is 4 December 1996.

2. A Form PTO 1390 for entering into the United States National Phase was sent to the Patent and Trademark Office by Express Mail on 26 May 1999. It was

CERTIFICATE OF MAILING BY EXPRESS MAIL

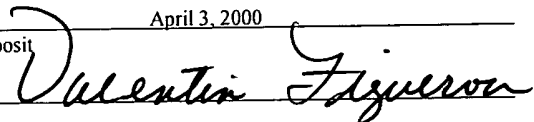
Express Mail Label No. EE647185799US

I hereby certify under 37 CFR §1.10 that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee with sufficient postage on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

April 3, 2000

Signature

Valentin Figueroa

Typed or Printed Name of Person Signing Certificate

04/10/2000 PVOLPE 00000008 09423399

01 FC:115

110.00 OP

Applicant : Malcolm Tom McKECHNIE et al.
Serial No. : 09/423,399
Filed : December 3, 1997
Page : 2

Attorney's Docket No.: 08291-600001

accompanied by a postcard, but the postcard was never returned. A copy of the form is enclosed as Exhibit B.

3. On 3 November 1999, Applicants filed a Status Request. A copy of this Status Request, together with its accompanying documentation is enclosed as Exhibit C. The documentation includes a copy of a return-receipt postcard stamped with the Serial No. 09/423,399. This is the serial number which we are using in this Petition.

4. The Notification of Abandonment referred to a Notification of Missing Requirements mailed on 17 June 1999. No Notification of Missing Requirements was ever received in this office. A copy of our docket records for the period 17 June 1999 through 6 July 1999 is attached hereto as Exhibit D. These records are entered by the Fish & Richardson docket number which, for this application, is 08291/600001. As can be seen, there is no entry under this number showing receipt of anything from the PTO.

5. Furthermore, we have no record of handling any application bearing the Serial No. 09/308,860.

It appears that there has been a misassignment of serial numbers in the Patent and Trademark Office and that, as a result, this application has become abandoned. Under the circumstances, the abandonment is, from Applicants' standpoint, unavoidable.

A check in the amount of \$110.00 as required by 37 C.F.R. § 1.17(l)(1) is here enclosed.

In connection with fees for this application, Applicants were wrongfully charged amounts of \$234, \$216 and \$970 – totaling \$1,420. A Request for Refund was filed on 3 January 2000.

Respectfully submitted,

Date: 3 April 00

Frederick H. Rabin
Frederick H. Rabin
Reg. No. 24,488

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291
30013936.doc

09/308860



Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
BOX PCT
Washington, D.C. 20231

| | | |
|------------------------|-------------------------------------|-------------------------------|
| US APPLICATION NO. 860 | MICKECHITE FIRST NAMED APPLICANT | ATTY. DOCKET NO. 00001/600001 |
|------------------------|-------------------------------------|-------------------------------|

FREDERICK H RABIN
FISH & RICHARDSON
45 ROCKEFELLER PLAZA
SUITE 2800
NEW YORK NY 10111

5071

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MAR 31 2000

FISH & RICHARDSON, P.C.
NEW YORK CITY OFFICE

PCT/DO/EO/90917
INTERNATIONAL APPLICATION NO.

| | |
|----------------------|------------------------|
| LA. FILING DATE 3/97 | PRIORITY DATE 12/24/96 |
|----------------------|------------------------|

03/28/00

DATE MAILED:

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as

☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has made the following determination:

- ☐ Applicant's letter of express abandonment received _____ is in compliance with 37 CFR 1.138 and is hereby acknowledged.
- ☐ Applicant has failed to provide the full U. S. Basic National Fee by ☐ 20 months (37 CFR 1.494 (b)(2)), ☐ 30 months (37 CFR 1.495 (b)(2)).
- ☒ Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 06-17-99 within the time period set therein.
- ☐ Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed _____ within the time period set therein. See the attached NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916).
- ☐ Other:

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR ☐ 1.494, ☒ 1.495 and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

John Anderson
Telephone: (703) 308-9116

SUBSTITUTE FORM PTO-1390

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

08291/600001

U.S. APPLICATION NO (IF KNOWN)

INTERNATIONAL APPLICATION NO.
PCT/GB97/03317INTERNATIONAL FILING DATE
03 December 1997PRIORITY DATE CLAIMED
04 December 1996TITLE OF INVENTION
METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER PARTICLES FROM A MATERIALAPPLICANT(S) FOR DO/EO/US
McKECHNIE, Malcolm Tom; GAYNOR, Paul Terence; HUGHES, John Farrell; and
SWINGLER, Jonathan

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☒ has been transmitted by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☒ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ A translation of amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)) (UNSIGNED)
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11. to 16. below concern other documents or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A FIRST preliminary amendment.
☐ A SECOND or SUBSEQUENT preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☒ Other items or information:

- 1) PCT - International Preliminary Examination Report (dated)
13 October 1998

"EXPRESS MAIL" Mailing Label Number E-EL647299394USDate of Deposit May 26, 1999
I hereby certify under 37 CFR 4.10 that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office To Addressee" with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.Francisco Robles
Francisco Robles

| | | | | | |
|---------------------------------|--|---|--|--|--|
| U.S. APPLICATION NO. (IF KNOWN) | | INTERNATIONAL APPLICATION NO. PCT/GB97/03317 | | ATTORNEY'S DOCKET NUMBER 08291/600001 | |
|---------------------------------|--|---|--|--|--|

| | | | | | |
|--|--|--|--|--------------|--------------|
| 17. ■ The following fees are submitted: Basic National Fee (37 CFR 1.492(a)(1)-(5)): Search report has been prepared by the EPO or JPO \$ 840 International preliminary examination fee paid to USPTO (37 CFR 1.482)..... \$ 670 No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2))..... \$ 760 Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO..... \$ 970 International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2) to (4)..... \$ 96 <div style="text-align: right;">ENTER APPROPRIATE BASIC FEE AMOUNT</div> | | | | CALCULATIONS | PTO USE ONLY |
| | | | | | |

| | | | | | |
|---|--|--|--|----------|--|
| Surcharge of \$130 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 mos from the earliest claimed priority date (37 CFR 1.492(e)). | | | | \$ 00.00 | |
|---|--|--|--|----------|--|

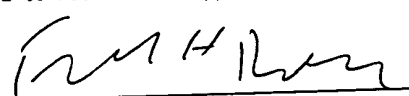
| CLAIMS | NUMBER FILED | NUMBER EXTRA | RATE | | |
|--|--------------|--------------|---------|-----------------------|--|
| TOTAL CLAIMS | 32 - 20 | 12 | x \$ 18 | \$ 216.00 | |
| INDEPENDENT CLAIMS | 6 - 3 | 3 | x \$ 78 | \$ 234.00 | |
| MULTIPLE DEPENDENT CLAIM(S) (if applicable) | | | + \$260 | \$ 0.00 | |
| TOTAL OF ABOVE CALCULATIONS | | | | \$1,420.00 | |
| Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28.) | | | | \$ 0.00 | |
| SUBTOTAL | | | | \$1,420.00 | |
| Processing fee of \$130 for furnishing the English Translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 mos. from the earliest claimed priority date (37 CFR 1.492(f)) | | | | \$ 0.00 | |
| TOTAL NATIONAL FEE | | | | \$1,420.00 | |
| Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). | | | | \$ 0.00 | |
| TOTAL FEES ENCLOSED | | | | \$1,420.00 | |
| | | | | Amount to be refunded | |
| | | | | Charged | |

a. ☒ A check in the amount of \$1,420.00 to cover the above fees is enclosed.
 b. ☐ Please charge my Deposit Account No. 06-1050 in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.
 c. ■ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 06-1050. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

FREDERICK H. RABIN
 FISH & RICHARDSON P.C.
 45 ROCKEFELLER PLAZA, SUITE 2800
 NEW YORK, NEW YORK 10111


 SIGNATURE
 Frederick H. Rabin
 NAME
 24,488
 REGISTRATION NUMBER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Malcolm Tom McKECHNIE et al. Art Unit :
Serial No. : PCT/GB97/03317 Examiner :
Filed : December 3, 1997
Title : METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER
PARTICLES FROM A MATERIAL

BOX: PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

STATUS REQUEST

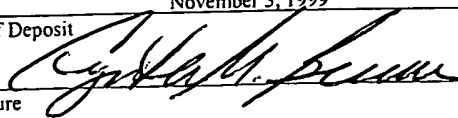
On 26 May 1999, Applicants sent to the Patent and Trademark Office a Form PTO-1390 for the purpose of entering into the United States National Phase of the above-noted PCT application.

Enclosed are copies of the Form PTO-1390, Express Mail Receipt No. EE647279394US, the back of a return-receipt postcard referencing the same Express Mail number and a copy of a check in the amount of \$1,420.

To date, Applicants have not received the return-receipt postcard, or anything else acknowledging receipt of these papers.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

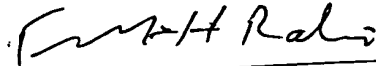
November 3, 1999
Date of Deposit
Signature 
Cynthia M. Berenc
Typed or Printed Name of Person Signing Certificate

Applicant : Malcolm Tom MacKECHNIE et al.
Serial No. : PCT/GB97/03317
Filed : December 3, 1997
Page : 2

Applicants hereby inquire into the status of this application.

Respectfully submitted,

Date: 3 Nov 99



Frederick H. Rabin
Reg. No. 24,488

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
(212) 765-5070 telephone
(212) 258-2291 facsimile
www.fr.com web site

30001565.doc

SUBSTITUTE FORM PTO-1390

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICETRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371

ATTORNEY'S DOCKET NUMBER

08291/600001

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Francisco Reblez

| | | |
|---------------------------------|---|--|
| U.S. APPLICATION NO. (IF KNOWN) | INTERNATIONAL APPLICATION NO. PCT/GB97/03317 | ATTORNEY'S DOCKET NUMBER 08291/600001 |
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 and all claims satisfied provisions of PCT Article 33(2) to (4)..... \$ 96

ENTER APPROPRIATE BASIC FEE AMOUNT

Surcharge of \$130 for furnishing the oath or declaration later than ☐ 20 ☐ 30 mos
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| | | | + \$260 | \$ 0.00 | |

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TOTAL OF ABOVE CALCULATIONS

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SUBTOTAL

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☐ 20 ☐ 30 mos. from the earliest claimed priority date (37 CFR 1.492(f))

TOTAL NATIONAL FEE

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TOTAL FEES ENCLOSED

Amount to be
 refunded

Charged

- a. X A check in the amount of \$1,420.00 to cover the above fees is enclosed.
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SEND ALL CORRESPONDENCE TO:

FREDERICK H. RABIN
 FISH & RICHARDSON P.C.
 45 ROCKEFELLER PLAZA, SUITE 2800
 NEW YORK, NEW YORK 10111

SIGNATURE

Frederick H. Rabin

NAME

24,488

REGISTRATION NUMBER



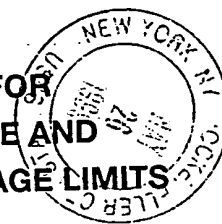
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Assistant Commissioner for Patents
Washington, D.C. 20231

08291/600001

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The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant: Malcolm Tom McKECHNIE et al

Serial No.: PCT/GB97/03317

Filed: December 3, 1997

For: Method for Controlling and Removing Dust...

☐ Request

☐ Specs.; Claims; Abstract

☐ Drawings

☐ Check in the Amount of \$

☐ Transmittal Letter

☐ Fee Calculation Sheet

☐ Response to Invitation

☐ Chapter II Demand

☒ Other Status Request w/attachments

Client: 08291-120001

Initials: FHR-cmb

11-3-99- Date

520 Rec'd PCT/PTO 09 NOV 1999

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant: Malcolm Tom McKECHNIE et al.

Serial No.: PCT/GB97/03317

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☐ Transmittal Letter

☐ Fee Calculation Sheet

☐ Response to Invitation

☐ Chapter II Demand

☒ Other Status Request w/attachments

Client: 0829-160001

Initials: FNR-CMB

11-3-99-Date

09/423399

noted
MCM

→

PRACTICE SYSTEMS USPTO MAIL LOG

| # | Date Received | Client / Matter Number | Action / Comments | Base Date/ Due Date |
|-----|---------------|------------------------|---------------------|------------------------|
| 1. | 6/17/99 | 07653/019001 | assignment | |
| 2. | | 08291/571001 | assignment | |
| 3. | | 09918/025001 | assignment | |
| 4. | | 07653/028001 | assignment | |
| 5. | | 07806/145001 | missing parts | |
| 6. | | 07703/227001 | issue fee | |
| 7. | | 07806/128001 | issue notification | |
| 8. | | 10249/004001 | OFR | |
| 9. | | | | |
| 10. | 6/18/99 | 07806/07001 | issue notification | |
| 11. | | 08846/055002 | ribbon copy | |
| 12. | | 10518/002001 | OFR | |
| 13. | 6/21/99 | 09189/038001 | appln | |
| 14. | | 07728/032001 | OFR | |
| 15. | | 09914/013001 | corr OFR | |
| 16. | | 07703/036001 | OFR + missing parts | |
| 17. | | 08774/133002 | soft copies | |
| 18. | | 08291/464001 | soft copies | |
| 19. | | 08291/601001 | appln | |
| 20. | | | | |
| 21. | 6/22/99 | 07703/074001 | abandon case | |
| 22. | | 10266/002001 | instr. to file PCT | |
| 23. | | 07806/133001 | issue fee | |
| 24. | | 09914/002001 | issue fee | |
| 25. | | 07967/023001 | office action | |

PRACTICE SYSTEMS USPTO MAIL LOG

| # | Date Received | Client / Matter Number | Action / Comments | Base Date/ Due Date |
|-----|---------------|------------------------|------------------------|------------------------|
| 1. | 6/22/99 | 09189/019001 | assignment | |
| 2. | | 09918/029001 | assignment | |
| 3. | | 09155/004001 | assignment | |
| 4. | | 09189/020001 | assignment | |
| 5. | | 07967/040001 | OFR | |
| 6. | | 09914/015001 | OFR | |
| 7. | | | | |
| 8. | 6/23/99 | 09914/007001 | office action | |
| 9. | | | | |
| 10. | 6/24/99 | 09918/033001 | assignment | |
| 11. | | 09918/032001 | assignment | |
| 12. | | 09189/002001 | assignment | |
| 13. | | 09189/025001 | assignment | |
| 14. | | | | |
| 15. | 6/25/99 | 08291/607001 | file patent appln | |
| 16. | | 07703/098001 | issue notification | |
| 17. | | 07703/256001 | issue notification | |
| 18. | | 07806/122001 | issue notification | |
| 19. | | 07806/146001 | missing parts | |
| 20. | | 07806/070001 | vision copy | |
| 21. | | 07806/128001 | vision copy | |
| 22. | | 07806/143001 | pr. doc. + translation | |
| 23. | | 07703/221002 | office action | |
| 24. | | 09520/011001 | OFR | |
| 25. | | 07967/040001 | corr. OFR | |

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PRACTICE SYSTEMS USPTO MAIL LOG

| # | Date Received | Client / Matter Number | Action / Comments | Base Date/ Due Date |
|-----|---------------|------------------------|----------------------|------------------------|
| 1. | 6/25/99 | 08291/299001 | issue notification | |
| 2. | (cont.) | 09196/006001 | resp. to OA | |
| 3. | | | | |
| 4. | 6/28/99 | 08846/056001 | advisory action | 6/21/99 |
| 5. | | 09189/039001 | file appen | 6/26/99 |
| 6. | | 07806/143001 | assignment | |
| 7. | | 10618/003001 | office action | 6/23/99 |
| 8. | | 07967/025001 | office action | 6/23/99 |
| 9. | | 08291/309001 | office action | 6/21/99 |
| 10. | | 07719/012001 | abandoned | 6/27/99 |
| 11. | | 09918/043001 | assignment | |
| 12. | | 07967/028001 | assignment | |
| 13. | | 10115/006001 | OFR | |
| 14. | | 10115/006001 | missing parts | 6/23/99 |
| 15. | | 07653/020002 | OFR | |
| 16. | | 08552/003001 | instr. to abandon | |
| 17. | 6/29/99 | 09619/012001 | corr. OFR | |
| 18. | | 09819/024001 | assignment | |
| 19. | | 07703/283001 | assignment | |
| 20. | | 09154/005001 | missing parts notice | |
| 21. | | 10115/003001 | OA | 6/22/99 |
| 22. | | 07985/019001 | OA | 6/22/99 |
| 23. | | 08846/055002 | soft copies | |
| 24. | | 07807/116001 | advisory action | 6/28/99 |
| 25. | | | | |

PRACTICE SYSTEMS USPTO MAIL LOG

| # | Date Received | Client / Matter Number | Action / Comments | Base Date/ Due Date |
|-----|---------------|------------------------|-----------------------|------------------------|
| 1. | 6/30/99 | 10502/002001 | refs. for IDS | |
| 2. | | 07719/011001 | instr. for OA | |
| 3. | | 07763/044001 | OFR | |
| 4. | | | | |
| 5. | 7/1/99 | 07807/002001 | instr. to pay IF | |
| 6. | | 10511/007001 | OFR | |
| 7. | | 07806/146001 | OFR | |
| 8. | | 07967/045001 | response to OA | |
| 9. | | | | |
| 10. | 7/2/99 | 07728/005001 | opposition remarks | |
| 11. | | 09546/007001 | assignment | |
| 12. | | 08291/597001 | notice of acceptance | |
| 13. | | 07806/122001 | ribbon copy | |
| 14. | | 07703/256001 | ribbon copy | |
| 15. | | 07703/098002 | issue notification | |
| 16. | | | | |
| 17. | 7/6/99 | 09989/002001 | issue fee | |
| 18. | | 07962/008001 | cert. of correction | |
| 19. | | 07769/019001 | payment 1st M fee | |
| 20. | | 07703/098001 | ribbon copy | |
| 21. | | 08291/299001 | ribbon copy | |
| 22. | | 07807/015001 | decision on appeal | |
| 23. | | 08774/139002 | notice of abandonment | |
| 24. | | 10660/032001 | acceptance of POA | |
| 25. | | 09189/020001 | corr. OFR | |